IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 8TH NOVEMBER 2006 / 17TH KARTHIKA 1928

MFA.No. 150 of 1997()

ORDER IN IA 3313/96 AND IA 3312/96 IN
OP.MV.1183/1996 of M.A.C.T., MANJERI

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APPELLANT:

V.V.SULAIKHA, W/O.K.ABDUL KALAM,
KARUPARAMBATH, MUTTIPALAM,
MANJERI, MALAPPURAM DIST.

BY ADV. SMT.I.SHEELA DEVI

RESPONDENTS:
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1. P.MOHAMMED, S/O.HASSAN, PUTHUSSERI,
NARUKARA, PATTARKULAM, MANJERI,
MALAPPURAM.

2. M.ABDUL AZEEZ, S/O.ALAVI, MECHERI,
THURAKKAL, MANJERI, MALAPPURAM.

3. K.BABU, S/O.KUNHIKUTTA PANICKER,
KARANGATTU, VELLILA, KOZHIKOTTUPARAMBA,
VIA MANKARA.

4. K.M.SAIDALAVI, S/O.KUNHIMOIDEEN,
VALTHODIKA HOUSE, P.O.PERIMBALAM,
VIA MUNDUPARAMBA.

5. UNITED INDIA INSURANCE CO. LTD.,
DIVISIONAL OFFICE, MANJERI, MALAPPURAM.

R5 BY ADV. SRI.P.V.JYOTHI PRASAD

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 08/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J

M.F.A.No.150 OF 1997

Dated this the 8th day of November, 2006

JUDGMENT

Additional evidence produced before the Court vide I.A.No.2107/06 taken on record.

2. The impugned order dismissing the claim petition was passed by the Tribunal since the Tribunal could not conclude on the issue as to negligence for want of any evidence being produced. After the impugned award was passed, the claimant applied for restoration of the proceedings on ground that the award was passed essentially on default. However, the Tribunal took a view that since the award was passed after issues were framed, the same can be only appealed against and the application for restoration could not lie. It is under such circumstances that this appeal is before this Court.

3. I have perused the materials on record. It appears that the appellant claimant, a female, then aged 19 years, suffered

injuries as a result of the accident and deserves an opportunity of being heard by allowing her produce further evidence. It was submitted by the counsel for the appellant that she was pregnant at the time when she suffered injuries and lost the same as a result of the accident. Under such circumstances, the impugned award is set aside and the matter is remitted for reconsideration with a direction to the parties that they will appear before the Tribunal on 11.12.2006.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

M.F.A.NO.150 OF 1997

JUDGMENT

8TH NOVEMBER, 2006.

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